

agreements with profitmaking organizations. See section 3020c of this title.

EFFECTIVE DATE OF REPEAL

Section 501(a) of Pub. L. 95-478 provided that the repeal by that section is effective at the close of Sept. 30, 1978.

NUTRITION PROJECTS FOR ELDERLY UNDER PRIOR PROVISIONS, QUALIFIED UNDER SUCCESSOR PROVISIONS, ELIGIBLE FOR FUNDS UNDER SUCH PROVISIONS; COMPETITIVE BIDDING; DISCONTINUANCE OF PAYMENTS FOR INEFFECTIVE ACTIVITIES

Pub. L. 95-478, title V, § 501(b), Oct. 18, 1978, 92 Stat. 1558, as amended by Pub. L. 97-115, § 14(a), Dec. 29, 1981, 95 Stat. 1608; Pub. L. 98-459, title VIII, § 801(b), Oct. 9, 1984, 98 Stat. 1792, provided that: "No contract awarded after September 30, 1982, shall be entered into for the provision of nutrition services unless such contract has been awarded through a competitive process. Such process shall include evaluation of each bidder's experience in providing services to older individuals. Whenever there is no evidence of improved quality of service and cost effectiveness on the part of another bidder, a provider of services who received funds under title VII of the Older Americans Act of 1965 [former sections 3045 to 3045i of this title] as in effect on September 29, 1978, shall be given preference."

SUBCHAPTER VIII—GENERAL PROVISIONS

§§ 3051 to 3055. Repealed. Pub. L. 93-29, title II, § 202, May 3, 1973, 87 Stat. 36

Section 3051, Pub. L. 89-73, title VIII, § 801, formerly title VI, § 601, July 14, 1965, 79 Stat. 225; Pub. L. 90-42, § 5(c), (d), July 1, 1967, 81 Stat. 107; renumbered title VII, § 701, Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 801, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to advisory committees in general, providing in: subsec. (a) for establishment of Advisory Committee on Older Americans, its membership, and term of office; subsec. (b) for appointment of technical advisory committees; subsec. (c) for compensation and travel expenses; and subsec. (d) for technical and clerical assistance for Advisory Committee. See section 3015 of this title.

Section 3052, Pub. L. 89-73, title VIII, § 802, formerly title VI, § 602, July 14, 1965, 79 Stat. 226; Pub. L. 90-42, § 5(e), (f), July 1, 1967, 81 Stat. 107, 108; renumbered title VII, § 702, Pub. L. 91-69, § 9, Sept. 17, 1969, 83 Stat. 111; renumbered title VIII, § 802, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to administration. See section 3016(a), (b) of this title.

Section 3053, Pub. L. 89-73, title VIII, § 803, formerly title VI, § 603, July 14, 1965, 79 Stat. 226; Pub. L. 90-42, § 4, July 1, 1967, 81 Stat. 107; renumbered title VII, § 703 and amended Pub. L. 91-69, § 2(b), 9, Sept. 17, 1969, 83 Stat. 108, 111; renumbered title VIII, § 803, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to authorization of appropriations.

Section 3054, Pub. L. 89-73, title VIII, § 804, formerly title VII, § 704, as added Pub. L. 91-69, § 12, Sept. 17, 1969, 83 Stat. 114; renumbered title VIII, § 804, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to evaluation of programs. See section 3017 of this title.

Section 3055, Pub. L. 89-73, title VIII, § 805, formerly title VII, § 705, as added Pub. L. 91-69, § 13, Sept. 17, 1969, 83 Stat. 114; renumbered title VIII, § 805, Pub. L. 92-258, § 1, Mar. 22, 1972, 86 Stat. 88, related to joint funding of projects. See section 3019 of this title.

SUBCHAPTER IX—COMMUNITY SERVICE SENIOR OPPORTUNITIES

CODIFICATION

Title V of the Older Americans Act of 1965, comprising this subchapter, was originally enacted as title IX of Pub. L. 89-73 by Pub. L. 94-135, title I, § 113(a), Nov.

28, 1975, 89 Stat. 720, and was renumbered title V and amended by Pub. L. 95-478, title I, § 105, title V, § 503(d), Oct. 18, 1978, 92 Stat. 1547, 1559; Pub. L. 97-115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 98-459, Oct. 9, 1984, 98 Stat. 1767; Pub. L. 100-175, Nov. 29, 1987, 101 Stat. 926; Pub. L. 100-628, Nov. 7, 1988, 102 Stat. 3224; Pub. L. 102-375, Sept. 30, 1992, 106 Stat. 1195; Pub. L. 103-171, Dec. 2, 1993, 107 Stat. 1988; Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936; Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681; Pub. L. 105-332, Oct. 31, 1998, 112 Stat. 3076; Pub. L. 106-501, Nov. 13, 2000, 114 Stat. 2226; Pub. L. 109-270, Aug. 12, 2006, 120 Stat. 683. Title V is shown herein, however, as having been added by Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2563, without reference to intervening amendments because of the extensive revision of the title's provisions by Pub. L. 109-365.

§ 3056. Older American community service employment program

(a) In general

(1) Establishment of program

To foster individual economic self-sufficiency and promote useful opportunities in community service activities (which shall include community service employment) for unemployed low-income persons who are age 55 or older, particularly persons who have poor employment prospects, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (referred to in this subchapter as the "Secretary") may establish an older American community service employment program.

(2) Use of appropriated amounts

Amounts appropriated to carry out this subchapter shall be used only to carry out the provisions contained in this subchapter.

(b) Grant authority

(1) Projects

To carry out this subchapter, the Secretary may make grants to public and nonprofit private agencies and organizations, agencies of a State, and tribal organizations to carry out the program established under subsection (a). Such grants may provide for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make such program effective or to supplement such program. The Secretary shall make the grants from allotments made under section 3056d of this title, and in accordance with section 3056f of this title. No payment shall be made by the Secretary toward the cost of any project established or administered by such an organization or agency unless the Secretary determines that such project—

(A) will provide community service employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, and such personnel will, to the fullest extent possible, be recruited from among eligible individuals;

(B)(i) will provide community service employment and other authorized activities for eligible individuals in the community in which such individuals reside, or in nearby communities; or

(ii) if such project is carried out by a tribal organization that receives a grant under this

subsection or receives assistance from a State that receives a grant under this subsection, will provide community service employment and other authorized activities for such individuals, including those who are Indians residing on an Indian reservation, as defined in section 3501 of title 25;

(C) will comply with an average participation cap for eligible individuals (in the aggregate) of—

- (i) 27 months; or
- (ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project area for such grantee, up to a period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 3056k(a)(2)(D) of this title that justify such an extended period for the program year involved;

(D) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by nonprofit organizations (excluding political parties exempt from taxation under section 501(c)(3) of title 26), but excluding projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(E) will contribute to the general welfare of the community, which may include support for children, youth, and families;

(F) will provide community service employment and other authorized activities for eligible individuals;

(G)(i) will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program;

(ii) will not displace currently employed workers (including partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits);

(iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(iv) will not employ or continue to employ any eligible individual to perform the same work or substantially the same work as that performed by any other individual who is on layoff;

(H) will coordinate activities with training and other services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including utilizing the one-stop delivery system of the local workforce investment areas involved to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training (such as work experience, on-the-job training, and classroom training) as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the

reasonable expenses of individuals being trained, including a reasonable subsistence allowance equivalent to the wage described in subparagraph (J);

(J) will ensure that safe and healthy employment conditions will be provided, and will ensure that participants employed in community service and other jobs assisted under this subchapter will be paid wages that shall not be lower than whichever is the highest of—

(i) the minimum wage that would be applicable to such a participant under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)) applied to the participant and if the participant were not exempt under section 13 of such Act (29 U.S.C. 213);

(ii) the State or local minimum wage for the most nearly comparable covered employment; or

(iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which community service employment or other authorized activities are being provided, and of persons who are knowledgeable about the needs of older individuals;

(L) will authorize payment for necessary supportive services costs (including transportation costs) of eligible individuals that may be incurred in training in any project funded under this subchapter, in accordance with rules issued by the Secretary;

(M) will ensure that, to the extent feasible, such project will serve the needs of minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

(N)(i) will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

(ii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

(O) will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce investment areas involved as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c));

(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

(i) clarifying the law with respect to political activities allowable and unallowable under chapter 15 of title 5 applicable to the project and to each category of individuals associated with such project; and

(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

(Q) will provide to the Secretary the description and information described in—

(i) paragraph (8), relating to coordination with other Federal programs, of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)); and

(ii) paragraph (14), relating to implementation of one-stop delivery systems, of section 112(b) of the Workforce Investment Act of 1998; and

(R) will ensure that entities that carry out activities under the project (including State agencies, local entities, subgrantees, and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient.

(2) Regulations

The Secretary may establish, issue, and amend such regulations as may be necessary to effectively carry out this subchapter.

(3) Assessment and service strategies

(A) Prepared under this chapter

An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such eligible individual also qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 2864(d)).

(B) Prepared under Workforce Investment Act of 1998

An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) for

an eligible individual may be used to comply with the requirement specified in subparagraph (A).

(c) Federal share and use of funds

(1) Federal share

The Secretary may pay a Federal share not to exceed 90 percent of the cost of any project for which a grant is made under subsection (b), except that the Secretary may pay all of such cost if such project is—

(A) an emergency or disaster project; or

(B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

(2) Non-Federal share

The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(3) Use of funds for administrative costs

Of the grant amount to be paid under this subsection by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the administrative costs of such project, except that—

(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount if the Secretary determines, based on information submitted by the grantee under subsection (b), that such increase is necessary to carry out such project; and

(B) if the grantee under subsection (b) demonstrates to the Secretary that—

(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and costs associated with other operation requirements imposed by the Secretary;

(ii) the number of community service employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available to pay the administrative costs is not increased; or

(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the administrative costs to an amount not to exceed 15 percent of the grant amount.

(4) Administrative costs

For purposes of this subchapter, administrative costs are the costs, both personnel-related and nonpersonnel-related and both direct and indirect, associated with the following:

(A) The costs of performing general administrative functions and of providing for the

coordination of functions, such as the costs of—

- (i) accounting, budgeting, and financial and cash management;
- (ii) procurement and purchasing;
- (iii) property management;
- (iv) personnel management;
- (v) payroll functions;
- (vi) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;
- (vii) audits;
- (viii) general legal services;
- (ix) developing systems and procedures, including information systems, required for administrative functions;
- (x) preparing administrative reports; and
- (xi) other activities necessary for the general administration of government funds and associated programs.

(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

(C) The costs of goods and services required for administrative functions of the project involved, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.

(D) The travel costs incurred for official business in carrying out administrative activities or overall management.

(E) The costs of information systems related to administrative functions (such as personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems.

(F) The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

(5) Non-Federal share of administrative costs

To the extent practicable, an entity that carries out a project under this subchapter shall provide for the payment of the expenses described in paragraph (4) from non-Federal sources.

(6) Use of funds for wages and benefits and programmatic activity costs

(A) In general

Amounts made available for a project under this subchapter that are not used to pay for the administrative costs shall be used to pay for the costs of programmatic activities, including the costs of—

- (i) participant wages, such benefits as are required by law (such as workers' compensation or unemployment compensation), the costs of physical examinations, compensation for scheduled work hours during which an employer's business is closed for a Federal holiday, and necessary sick leave that is not part of an accumulated sick leave program, except that no amounts provided under this subchapter may be used to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses;

- (ii) participant training (including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition), which may be provided prior to or subsequent to placement and which may be provided on the job, in a classroom setting, or pursuant to other appropriate arrangements;

- (iii) job placement assistance, including job development and job search assistance;

- (iv) participant supportive services to enable a participant to successfully participate in a project under this subchapter, which may include the payment of reasonable costs of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and

- (v) outreach, recruitment and selection, intake, orientation, and assessments.

(B) Use of funds for wages and benefits

From the funds made available through a grant made under subsection (b), a grantee under this subchapter—

- (i) except as provided in clause (ii), shall use not less than 75 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this subchapter; or

- (ii) that obtains approval for a request described in subparagraph (C) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

(C) Request to use additional funds for programmatic activity costs

(i) In general

A grantee may submit to the Secretary a request for approval—

- (I) to use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i);

- (II) to use the percentage of grant funds described in paragraph (3) to pay for administrative costs, as specified in that paragraph;

- (III) to use not more than 10 percent of the grant funds for individual participants to provide activities described in clauses (ii) and (iv) of subparagraph (A), in which case the grantee shall provide (from the funds described in this subclause) the subsistence allowance described in subsection (b)(1)(I) for those individual participants who are receiving training described in that subsection from the funds described in this subclause, but may not use the funds described in this subclause to pay for any administrative costs; and

- (IV) to use the remaining grant funds to provide activities described in clauses (ii) through (v) of subparagraph (A).

(ii) Contents

In submitting the request the grantee shall include in the request—

(I) a description of the activities for which the grantee will spend the grant funds described in subclauses (III) and (IV) of clause (i), consistent with those subclauses;

(II) an explanation documenting how the provision of such activities will improve the effectiveness of the project, including an explanation concerning whether any displacement of eligible individuals or elimination of positions for such individuals will occur, information on the number of such individuals to be displaced and of such positions to be eliminated, and an explanation concerning how the activities will improve employment outcomes for individuals served, based on the assessment conducted under subsection (b)(1)(N); and

(III) a proposed budget and work plan for the activities, including a detailed description of the funds to be spent on the activities described in subclauses (III) and (IV) of clause (i).

(iii) Submission

The grantee shall submit a request described in clause (i) not later than 90 days before the proposed date of implementation contained in the request. Not later than 30 days before the proposed date of implementation, the Secretary shall approve, approve as modified, or reject the request, on the basis of the information included in the request as described in clause (ii).

(D) Report

Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantee's use of funds for activities described in clauses (i) through (v) of subparagraph (A).

(d) Project description

Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this subchapter.

(e) Pilot, demonstration, and evaluation projects

(1) In general

The Secretary, in addition to exercising any other authority contained in this subchapter, shall use funds reserved under section 3056d(a)(1) of this title to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of the techniques and approaches, in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such

agreements with States, public agencies, non-profit private organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project, for the appropriate area agency on aging to submit comments on such a project in order to ensure coordination of activities under this subchapter.

(2) Projects

Such projects may include—

(A) activities linking businesses and eligible individuals, including activities providing assistance to participants transitioning from subsidized activities to private sector employment;

(B) demonstration projects and pilot projects designed to—

(i) attract more eligible individuals into the labor force;

(ii) improve the provision of services to eligible individuals under one-stop delivery systems established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(iii) enhance the technological skills of eligible individuals; and

(iv) provide incentives to grantees under this subchapter for exemplary performance and incentives to businesses to promote their participation in the program under this subchapter;

(C) demonstration projects and pilot projects, as described in subparagraph (B), for workers who are older individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;

(D) provision of training and technical assistance to support any project funded under this subchapter;

(E) dissemination of best practices relating to employment of eligible individuals; and

(F) evaluation of the activities authorized under this subchapter.

(3) Consultation

To the extent practicable, entities carrying out projects under this subsection shall consult with appropriate area agencies on aging and with other appropriate agencies and entities to promote coordination of activities under this subchapter.

(Pub. L. 89-73, title V, § 502, as added Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2563.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsecs. (b)(1)(H), (N)(i), (3) and (e)(2)(B)(ii), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, which enacted chapter 73 (§ 9201 et seq.) of Title 20, Education, and chapter 30 (§ 2801 et seq.) of Title 29, Labor, and enacted, amended, and repealed numerous other sections and notes in the Code. Title I of the Act is classified principally to chapter 30 of Title 29. Subtitle B of title I of the Act is

classified generally to subchapter II (§2811 et seq.) of chapter 30 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20 and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(1)(J)(i), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(1)(N)(i), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (b)(1)(N)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 3056, Pub. L. 89-73, title V, §502, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2267; amended Pub. L. 109-270, §2(k)(1), Aug. 12, 2006, 120 Stat. 748, related to the older American community service employment program, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056, Pub. L. 89-73, title V, §502, formerly title IX, §902, as added Pub. L. 94-135, title I, §113(a), Nov. 28, 1975, 89 Stat. 720; renumbered title V, §502, and amended Pub. L. 95-478, title I, §105(a), (b), Oct. 18, 1978, 92 Stat. 1547; Pub. L. 97-115, §12(a)(1), (2), (b)(1), (c), Dec. 29, 1981, 95 Stat. 1606; Pub. L. 98-459, title V, §501, Oct. 9, 1984, 98 Stat. 1786; Pub. L. 100-175, title I, §§161, 162(a), Nov. 29, 1987, 101 Stat. 957; Pub. L. 102-375, title V, §§501, 504(c)(1), (2), title IX, §904(b)(1), Sept. 30, 1992, 106 Stat. 1265, 1269, 1309; Pub. L. 105-220, title III, §323, Aug. 7, 1998, 112 Stat. 1087; Pub. L. 105-277, div. A, §101(f) [title VIII, §§403(b), 405(d)(33)(B), (f)(25)(B)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-416, 2681-426, 2681-433; Pub. L. 105-332, §3(i)(1), Oct. 31, 1998, 112 Stat. 3126, related to the older American community service employment program, prior to the general amendment of this subchapter by Pub. L. 106-501.

Another prior section 502 of Pub. L. 89-73, title V, as added Pub. L. 93-29, title V, §501, May 3, 1973, 87 Stat. 50, related to requirements for approval of applications, preferred areas, and agency application and was classified to section 3041a of this title, prior to repeal by Pub. L. 95-478, title V, §501(a), Oct. 18, 1978, 92 Stat. 1558.

EFFECTIVE DATE

Pub. L. 109-365, title V, §502, Oct. 17, 2006, 120 Stat. 2590, provided that:

“(a) IN GENERAL.—Title V of the Older Americans Act of 1965 [42 U.S.C. 3056 et seq.] (as amended by section 501) takes effect July 1, 2007.

“(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.—

“(1) REGULATIONS.—Effective on the date of enactment of this Act [Oct. 17, 2006], the Secretary of Labor may issue rules and regulations authorized in such title V.

“(2) EXPECTED LEVELS OF PERFORMANCE.—Prior to July 1, 2007, the Secretary of Labor may carry out the activities authorized in section 513(a)(2) of the Older Americans Act of 1965 [42 U.S.C. 3056k(a)(2)] (as so amended), in preparation for program year 2007.”

SHORT TITLE

For short title of this subchapter as the “Community Service Senior Opportunities Act”, see section 501 of Pub. L. 89-73, set out as a note under section 3001 of this title.

§ 3056a. Administration

(a) State plan

(1) Governor

For a State to be eligible to receive an allotment under section 3056d of this title, the Governor of the State shall submit to the Secretary for consideration and approval, a single State plan (referred to in this subchapter as the “State plan”) that outlines a 4-year strategy for the statewide provision of community service employment and other authorized activities for eligible individuals under this subchapter. The plan shall contain such provisions as the Secretary may require, consistent with this subchapter, including a description of the process used to ensure the participation of individuals described in paragraph (2). Not less often than every 2 years, the Governor shall review the State plan and submit an update to the State plan to the Secretary for consideration and approval.

(2) Recommendations

In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

(A) individuals representing the State agency and the area agencies on aging in the State, and the State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(B) individuals representing public and nonprofit private agencies and organizations providing employment services, including each grantee operating a project under this subchapter in the State; and

(C) individuals representing social service organizations providing services to older individuals, grantees under subchapter III of this chapter, affected communities, unemployed older individuals, community-based organizations serving the needs of older individuals, business organizations, and labor organizations.

(3) Comments

Any State plan submitted by the Governor in accordance with paragraph (1) shall be accompanied by copies of public comments relating to the plan received pursuant to paragraph (7), and a summary of the comments.

(4) Plan provisions

The State plan shall identify and address—

(A) the relationship that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in the State;

(B) the relative distribution of eligible individuals residing in rural and urban areas in the State; and

(C) the relative distribution of—

(i) eligible individuals who are individuals with greatest economic need;

(ii) eligible individuals who are minority individuals;

(iii) eligible individuals who are limited English proficient; and

(iv) eligible individuals who are individuals with greatest social need;

(D) the current and projected employment opportunities in the State (such as by providing information available under section 497-2 of title 29 by occupation), and the type of skills possessed by local eligible individuals;

(E) the localities and populations for which projects of the type authorized by this subchapter are most needed; and

(F) plans for facilitating the coordination of activities of grantees in the State under this subchapter with activities carried out in the State under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(5) Governor's recommendations

Before a proposal for a grant under this subchapter for any fiscal year is submitted to the Secretary, the Governor of the State in which projects are proposed to be conducted under such grant shall be afforded a reasonable opportunity to submit to the Secretary—

(A) recommendations regarding the anticipated effect of each such proposal upon the overall distribution of enrollment positions under this subchapter in the State (including such distribution among urban and rural areas), taking into account the total number of positions to be provided by all grantees in the State;

(B) any recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and

(C) in the case of any increase in funding that may be available for use in the State under this subchapter for the fiscal year, any recommendations for distribution of newly available positions in excess of those available during the preceding year to underserved areas.

(6) Disruptions

In developing a plan or considering a recommendation under this subsection, the Governor shall avoid disruptions in the provision of services for participants to the greatest possible extent.

(7) Determination; review

(A) Determination

In order to effectively carry out this subchapter, each State shall make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

(B) Review

The Secretary may review, on the Secretary's own initiative or at the request of any public or private agency or organization or of any agency of the State, the distribution of projects and services under this subchapter in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of projects or services in a State, the Secretary shall give notice and opportunity for public comment.

(8) Exemption

The grantees that serve eligible individuals who are older Indians or Pacific Island and Asian Americans with funds reserved under section 3056d(a)(3) of this title may not be required to participate in the State planning processes described in this section but shall collaborate with the Secretary to develop a plan for projects and services to eligible individuals who are Indians or Pacific Island and Asian Americans, respectively.

(b) Coordination with other Federal programs

(1) In general

The Secretary and the Assistant Secretary shall coordinate the program carried out under this subchapter with programs carried out under other subchapters of this chapter, to increase employment opportunities available to older individuals.

(2) Programs

(A) In general

The Secretary shall coordinate programs carried out under this subchapter with the program carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.), the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.). The Secretary shall coordinate the administration of this subchapter with the administration of other subchapters of this chapter by the Assistant Secretary to increase the likelihood that eligible individuals for whom employment opportunities under this subchapter are available and who need services under such subchapters receive such services.

(B) Use of funds

(i) Prohibition

Funds appropriated to carry out this subchapter may not be used to carry out any program under the Workforce Investment Act of 1998, the Community Services Block Grant Act, the Rehabilitation Act of 1973, the Carl D. Perkins Career and Technical Education Act of 2006, the National and Community Service Act of 1990, or the Domestic Volunteer Service Act of 1973.

(ii) Joint activities

Clause (i) shall not be construed to prohibit carrying out projects under this subchapter jointly with programs, projects, or activities under any Act specified in clause (i), or from carrying out section 3056i of this title.

(3) Informational materials on age discrimination

The Secretary shall distribute to grantees under this subchapter, for distribution to program participants, and at no cost to grantees or participants, informational materials de-

veloped and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies that the Secretary determines are designed to help participants identify age discrimination and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(c) Use of services, equipment, personnel, and facilities

In carrying out this subchapter, the Secretary may use the services, equipment, personnel, and facilities of Federal and other agencies, with their consent, with or without reimbursement, and on a similar basis cooperate with other public and nonprofit private agencies and organizations in the use of services, equipment, and facilities.

(d) Payments

Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) No delegation of functions

The Secretary shall not delegate any function of the Secretary under this subchapter to any other Federal officer or entity.

(f) Compliance

(1) Monitoring

The Secretary shall monitor projects for which grants are made under this subchapter to determine whether the grantees are complying with rules and regulations issued to carry out this subchapter (including the statewide planning, consultation, and coordination requirements of this subchapter).

(2) Compliance with uniform cost principles and administrative requirements

Each grantee that receives funds under this subchapter shall comply with the applicable uniform cost principles and appropriate administrative requirements for grants and contracts that are applicable to the type of entity that receives funds, as issued as circulars or rules of the Office of Management and Budget.

(3) Reports

Each grantee described in paragraph (2) shall prepare and submit a report in such manner and containing such information as the Secretary may require regarding activities carried out under this subchapter.

(4) Records

Each grantee described in paragraph (2) shall keep records that—

- (A) are sufficient to permit the preparation of reports required by this subchapter;
- (B) are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully; and
- (C) contain any other information that the Secretary determines to be appropriate.

(g) Evaluations

The Secretary shall establish by rule and implement a process to evaluate, in accordance with section 3056k of this title, the performance

of projects carried out and services provided under this subchapter. The Secretary shall report to Congress, and make available to the public, the results of each such evaluation and shall use such evaluation to improve services delivered by, or the operation of, projects carried out under this subchapter.

(Pub. L. 89-73, title V, §503, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2571.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsecs. (a)(2)(A), (4)(F) and (b)(2)(A), (B)(i), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, which enacted chapter 73 (§9201 et seq.) of Title 20, Education, and chapter 30 (§2801 et seq.) of Title 29, Labor, and enacted, amended, and repealed numerous other sections and notes in the Code. Title I of the Act is classified principally to chapter 30 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(2)(A), (B)(i), is subtitle B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (b)(2)(A), (B)(i), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Age Discrimination in Employment Act of 1967, referred to in subsec. (b)(3), is Pub. L. 90-202, Dec. 15, 1967, 81 Stat. 602, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 3056a, Pub. L. 89-73, title V, §503, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2272; amended Pub. L. 109-270, §2(k)(2), Aug. 12, 2006, 120 Stat. 748, related to administration of community service projects, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056a, Pub. L. 89-73, title V, §503, formerly title IX, §903, as added Pub. L. 94-135, title I, §113(a), Nov. 28, 1975, 89 Stat. 722; renumbered title V, §503, and amended Pub. L. 95-478, title I, §105(a), (c)(1), (3), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97-115, §12(d), Dec. 29, 1981, 95 Stat. 1607; Pub. L. 98-459, title V, §502, Oct. 9, 1984, 98 Stat. 1786; Pub. L. 100-175, title I, §163, Nov. 29, 1987, 101 Stat. 958; Pub. L. 102-375, title I, §102(b)(1)(B), (9)(E), title V, §502, Sept.

30, 1992, 106 Stat. 1201, 1202, 1266; Pub. L. 103-171, §§3(a)(8), 4(a)(3), Dec. 2, 1993, 107 Stat. 1990, 1991; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(33)(C), (f)(25)(C)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-426, 2681-433, related to administration of community service projects, prior to the general amendment of this subchapter by Pub. L. 106-501.

Another prior section 503 of Pub. L. 89-73 was classified to section 3041b of this title, prior to repeal by Pub. L. 95-478.

§ 3056b. Participants not Federal employees

(a) Inapplicability of certain provisions covering Federal employees

Eligible individuals who are participants in any project funded under this subchapter shall not be considered to be Federal employees as a result of such participation and shall not be subject to part III of title 5.

(b) Workers' compensation

No grant or subgrant shall be made and no contract or subcontract shall be entered into under this subchapter with an entity who is, or whose employees are, under State law, exempted from operation of the State workers' compensation law, generally applicable to employees, unless the entity shall undertake to provide either through insurance by a recognized carrier or by self-insurance, as authorized by State law, that the persons employed under the grant, subgrant, contract, or subcontract shall enjoy workers' compensation coverage equal to that provided by law for covered employment.

(Pub. L. 89-73, title V, §504, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2575.)

PRIOR PROVISIONS

A prior section 3056b, Pub. L. 89-73, title V, §504, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2276, related to participants not having status as Federal employees and contractual requirement of workmen's compensation, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056b, Pub. L. 89-73, title V, §504, formerly title IX, §904, as added Pub. L. 94-135, title I, §113(a), Nov. 28, 1975, 89 Stat. 723; renumbered title V, §504, and amended Pub. L. 95-478, title I, §105(a), title V, §503(d), Oct. 18, 1978, 92 Stat. 1547, 1559, related to participants not having status as Federal employees and contractual requirement of workmen's compensation, prior to the general amendment of this subchapter by Pub. L. 106-501.

Another prior section 504 of Pub. L. 89-73 was classified to section 3041c of this title, prior to repeal by Pub. L. 95-478.

§ 3056c. Interagency cooperation

(a) Consultation with the Assistant Secretary

The Secretary shall consult with and obtain the written views of the Assistant Secretary before issuing rules and before establishing general policy in the administration of this subchapter.

(b) Consultation with heads of other agencies

The Secretary shall consult and cooperate with the Secretary of Health and Human Services (acting through officers including the Director of the Office of Community Services), and the heads of other Federal agencies that carry out programs related to the program carried out under this subchapter, in order to achieve opti-

mal coordination of the program carried out under this subchapter with such related programs. Each head of a Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this subchapter and in promoting the identification and interests of individuals eligible for employment in projects assisted under this subchapter.

(c) Coordination

(1) In general

The Secretary shall promote and coordinate efforts to carry out projects under this subchapter jointly with programs, projects, or activities carried out under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c) of such Act (29 U.S.C. 2864(c)), that provide training and employment opportunities to eligible individuals.

(2) Coordination with certain activities

The Secretary shall consult with the Secretary of Education to promote and coordinate efforts to carry out projects under this subchapter jointly with activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(Pub. L. 89-73, title V, §505, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2575.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (c)(1), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (c)(2), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 3056c, Pub. L. 89-73, title V, §505, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2276; amended Pub. L. 109-270, §2(k)(3), Aug. 12, 2006, 120 Stat. 749, related to interagency cooperation, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056c, Pub. L. 89-73, title V, §505, formerly title IX, §905, as added Pub. L. 94-135, title I, §113(a), Nov. 28, 1975, 89 Stat. 723; renumbered title V, §505, and amended Pub. L. 95-478, title I, §105(a), (d), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97-115, §12(b)(2), Dec. 29, 1981, 95 Stat. 1606; Pub. L. 102-375, title V, §503, Sept. 30, 1992, 106 Stat. 1267; Pub. L. 103-171, §3(a)(8), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 105-332, §3(i)(2), Oct. 31, 1998, 112 Stat. 3126, related to interagency cooperation, prior to the general amendment of this subchapter by Pub. L. 106-501.

Another prior section 505 of Pub. L. 89-73 was classified to section 3041d of this title, prior to repeal by Pub. L. 95-478.

§ 3056d. Distribution of assistance**(a) Reservations****(1) Reservation for pilot demonstration and evaluation projects**

Of the funds appropriated to carry out this subchapter for each fiscal year, the Secretary may first reserve not more than 1.5 percent to carry out demonstration projects, pilot projects, and evaluation projects under section 3056(e) of this title.

(2) Reservation for territories

Of the funds appropriated to carry out this subchapter for each fiscal year, the Secretary shall reserve 0.75 percent, of which—

(A) Guam, American Samoa, and the United States Virgin Islands shall each receive 30 percent of the funds so reserved; and

(B) the Commonwealth of the Northern Mariana Islands shall receive 10 percent of the funds so reserved.

(3) Reservation for organizations

Of the funds appropriated to carry out this subchapter for each fiscal year, the Secretary shall reserve such amount as may be necessary to make national grants to public or nonprofit national Indian aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Indians and to national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Pacific Island and Asian Americans.

(b) State allotments

The allotment for each State shall be the sum of the amounts allotted for national grants in such State under subsection (d) and for the grant to such State under subsection (e).

(c) Division between national grants and grants to States

The funds appropriated to carry out this subchapter for any fiscal year that remain after amounts are reserved under paragraphs (1), (2), and (3) of subsection (a) shall be divided by the Secretary between national grants and grants to States as follows:

(1) Reservation of funds for fiscal year 2000 level of activities**(A) In general**

The Secretary shall reserve the amount of funds necessary to maintain the fiscal year 2000 level of activities supported by grantees that operate under this subchapter under national grants from the Secretary, and the fiscal year 2000 level of activities supported by State grantees under this subchapter, in proportion to their respective fiscal year 2000 levels of activities.

(B) Insufficient appropriations

If in any fiscal year the funds appropriated to carry out this subchapter are insufficient to satisfy the requirement specified in subparagraph (A), then the amount described in

subparagraph (A) shall be reduced proportionally.

(2) Funding in excess of fiscal year 2000 level of activities**(A) Up to \$35,000,000**

The amount of funds remaining (if any) after the application of paragraph (1), but not to exceed \$35,000,000, shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be provided to grantees that operate under this subchapter under national grants from the Secretary.

(B) Over \$35,000,000

The amount of funds remaining (if any) after the application of subparagraph (A) shall be divided so that 50 percent shall be provided to State grantees and 50 percent shall be provided to grantees that operate under this subchapter under national grants from the Secretary.

(d) Allotments for national grants

From funds available under subsection (c) for national grants, the Secretary shall allot for public and nonprofit private agency and organization grantees that operate under this subchapter under national grants from the Secretary in each State, an amount that bears the same ratio to such funds as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

(1) Minimum allotment

No State shall be provided an amount under this subsection that is less than $\frac{1}{2}$ of 1 percent of the amount provided under subsection (c) for public and nonprofit private agency and organization grantees that operate under this subchapter under national grants from the Secretary in all of the States.

(2) Hold harmless

If such amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for grantees that operate under this subchapter under national grants from the Secretary in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for grantees that operate under this subchapter under national grants from the Secretary in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this subchapter under national grants from the Secretary in all of the States.

(3) Reduction

Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced propor-

tionally to satisfy the conditions in such paragraphs.

(e) Allotments for grants to States

From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount that bears the same ratio to such amount as the product of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

(1) Minimum allotment

No State shall be provided an amount under this subsection that is less than $\frac{1}{2}$ of 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

(2) Hold harmless

If such amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in all of the States.

(3) Reduction

Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

(f) Allotment percentage

For purposes of subsections (d) and (e) and this subsection—

(1) the allotment percentage of each State shall be 100 percent less that percentage that bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that—

(A) the allotment percentage shall be not more than 75 percent and not less than 33 percent; and

(B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent;

(2) the number of individuals age 55 or older in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

(3) for the purpose of determining the allotment percentage, the term “United States” means the 50 States,¹ and the District of Columbia.

¹ So in original. The comma probably should not appear.

(g) Definitions

In this section:

(1) Cost per authorized position

The term “cost per authorized position” means the sum of—

(A) the hourly minimum wage rate specified in section 206(a)(1) of title 29, multiplied by the number of hours equal to the product of 21 hours and 52 weeks;

(B) an amount equal to 11 percent of the amount specified under subparagraph (A), for the purpose of covering Federal payments for fringe benefits; and

(C) an amount determined by the Secretary, for the purpose of covering Federal payments for the remainder of all other program and administrative costs.

(2) Fiscal year 2000 level of activities

The term “fiscal year 2000 level of activities” means—

(A) with respect to public and nonprofit private agency and organization grantees that operate under this subchapter under national grants from the Secretary, their level of activities for fiscal year 2000; and

(B) with respect to State grantees, their level of activities for fiscal year 2000.

(3) Grants to States

The term “grants to States” means grants made under this subchapter by the Secretary to the States.

(4) Level of activities

The term “level of activities” means the number of authorized positions multiplied by the cost per authorized position.

(5) National grants

The term “national grants” means grants made under this subchapter by the Secretary to public and nonprofit private agency and organization grantees that operate under this subchapter.

(6) State

The term “State” does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(Pub. L. 89-73, title V, § 506, as added Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2576.)

PRIOR PROVISIONS

A prior section 3056d, Pub. L. 89-73, title V, § 506, as added Pub. L. 106-501, title V, § 501, Nov. 13, 2000, 114 Stat. 2276, related to distribution of assistance, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056d, Pub. L. 89-73, title V, § 506, formerly title IX, § 906, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 723; renumbered title V, § 506, and amended Pub. L. 95-478, title I, § 105(a), (e), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97-115, § 12(e), Dec. 29, 1981, 95 Stat. 1607; Pub. L. 98-459, title V, § 503(a), (b), Oct. 9, 1984, 98 Stat. 1787; Pub. L. 100-175, title I, §§ 162(b), 182(b)(3), Nov. 29, 1987, 101 Stat. 957, 964; Pub. L. 102-375, title V, § 504(a)-(c)(1), (3), title IX, § 904(b)(2), Sept. 30, 1992, 106 Stat. 1267-1269, 1309, related to national grants or contracts and State allotments for projects, prior to the general amendment of this subchapter by Pub. L. 106-501.

Another prior section 506 of Pub. L. 89-73 was classified to section 3041e of this title, prior to repeal by Pub. L. 95-478.

§ 3056e. Equitable distribution

(a) Interstate allocation

In making grants under section 3056(b) of this title from allotments made under section 3056d of this title, the Secretary shall ensure, to the extent feasible, an equitable distribution of activities under such grants, in the aggregate, among the States, taking into account the needs of underserved States.

(b) Intrastate allocation

The amount allocated for projects within each State under section 3056d of this title shall be allocated among areas in the State in an equitable manner, taking into consideration the State priorities set out in the State plan in effect under section 3056a(a) of this title.

(Pub. L. 89-73, title V, § 507, as added Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2579.)

PRIOR PROVISIONS

A prior section 3056e, Pub. L. 89-73, title V, § 507, as added Pub. L. 106-501, title V, § 501, Nov. 13, 2000, 114 Stat. 2280, related to equitable distribution of activities and projects, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056e, Pub. L. 89-73, title V, § 507, formerly title IX, § 907, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 724; renumbered title V, § 507, and amended Pub. L. 95-478, title I, § 105(a), (f), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97-115, § 12(a)(3), (f), Dec. 29, 1981, 95 Stat. 1606, 1607; Pub. L. 98-459, title V, § 503(c), Oct. 9, 1984, 98 Stat. 1787; Pub. L. 100-175, title I, §§ 164, 182(b)(4), (p), Nov. 29, 1987, 101 Stat. 958, 964, 967; Pub. L. 100-628, title VII, § 705(9), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102-375, title I, § 102(b)(8), title V, § 504(c)(1), Sept. 30, 1992, 106 Stat. 1201, 1269, related to definitions, prior to the general amendment of this subchapter by Pub. L. 106-501.

Another prior section 507 of Pub. L. 89-73 was classified to section 3041f of this title, prior to repeal by Pub. L. 95-478.

§ 3056f. Report

To carry out the Secretary's responsibilities for reporting in section 3056a(g) of this title, the Secretary shall require the State agency for each State that receives funds under this subchapter to prepare and submit a report at the beginning of each fiscal year on such State's compliance with section 3056e(b) of this title. Such report shall include the names and geographic location of all projects assisted under this subchapter and carried out in the State and the amount allocated to each such project under section 3056d of this title.

(Pub. L. 89-73, title V, § 508, as added Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2579.)

PRIOR PROVISIONS

A prior section 3056f, Pub. L. 89-73, title V, § 508, as added Pub. L. 106-501, title V, § 501, Nov. 13, 2000, 114 Stat. 2280, required annual report on State's compliance with section 3056e(b) of this title, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056f, Pub. L. 89-73, title V, § 508, formerly title IX, § 908, as added Pub. L. 94-135, title I, § 113(a), Nov. 28, 1975, 89 Stat. 725; renumbered title V, § 508, and amended Pub. L. 95-478, title I,

§ 105(a), (g), Oct. 18, 1978, 92 Stat. 1547, 1548; Pub. L. 97-115, § 12(g), Dec. 29, 1981, 95 Stat. 1607; Pub. L. 98-459, title V, § 504, Oct. 9, 1984, 98 Stat. 1787; Pub. L. 100-175, title I, § 165, Nov. 29, 1987, 101 Stat. 958; Pub. L. 102-375, title V, § 505, Sept. 30, 1992, 106 Stat. 1269, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 106-501.

§ 3056g. Employment assistance and Federal housing and supplemental nutrition assistance programs

Funds received by eligible individuals from projects carried out under the program established under this subchapter shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other individuals, to participate in any housing program for which Federal funds may be available or for any income determination under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(Pub. L. 89-73, title V, § 509, as added Pub. L. 109-365, title V, § 501, Oct. 17, 2006, 120 Stat. 2579; amended Pub. L. 110-234, title IV, § 4002(b)(1)(B), (2)(BB), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, § 4(a), title IV, § 4002(b)(1)(B), (2)(BB), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in text, is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 3056g, Pub. L. 89-73, title V, § 509, as added Pub. L. 106-501, title V, § 501, Nov. 13, 2000, 114 Stat. 2280, related to employment assistance and Federal housing and food stamp programs, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056g, Pub. L. 89-73, title V, § 509, as added Pub. L. 100-175, title I, § 166, Nov. 29, 1987, 101 Stat. 958, related to employment assistance and Federal housing and food stamp programs, prior to the general amendment of this subchapter by Pub. L. 106-501.

AMENDMENTS

2008—Pub. L. 110-246, § 4002(b)(1)(B), (2)(BB), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(BB) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

§ 3056h. Eligibility for workforce investment activities

Eligible individuals under this subchapter may be considered by local workforce investment

boards and one-stop operators established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) to satisfy the requirements for receiving services under such title I that are applicable to adults.

(Pub. L. 89-73, title V, §510, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in text, is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

A prior section 3056h, Pub. L. 89-73, title V, §510, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to eligibility for workforce investment activities, prior to the general amendment of this subchapter by Pub. L. 109-365.

Another prior section 3056h, Pub. L. 89-73, title V, §510, as added Pub. L. 102-375, title V, §506, Sept. 30, 1992, 106 Stat. 1269; amended Pub. L. 103-171, §2(20), Dec. 2, 1993, 107 Stat. 1989; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(d)(33)(D), (f)(25)(D)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-426, 2681-433, related to dual eligibility, prior to the general amendment of this subchapter by Pub. L. 106-501.

§ 3056i. Coordination with the Workforce Investment Act of 1998

(a) Partners

Grantees under this subchapter shall be one-stop partners as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

(b) Coordination

In local workforce investment areas where more than 1 grantee under this subchapter provides services, the grantees shall—

- (1) coordinate their activities related to the one-stop delivery systems; and
- (2) be signatories of the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c)).

(Pub. L. 89-73, title V, §511, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

PRIOR PROVISIONS

A prior section 3056i, Pub. L. 89-73, title V, §511, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, provided that assistance under this subchapter was not financial assistance described in section 1255a(h)(1)(A) of title 8, prior to the general amendment of this subchapter by Pub. L. 109-365. See section 3056j of this title.

Another prior section 3056i, Pub. L. 89-73, title V, §511, as added Pub. L. 102-375, title V, §507, Sept. 30, 1992, 106 Stat. 1269, related to treatment of assistance, prior to the general amendment of this subchapter by Pub. L. 106-501.

§ 3056j. Treatment of assistance

Assistance provided under this subchapter shall not be considered to be financial assistance described in section 1255a(h)(1)(A) of title 8.

(Pub. L. 89-73, title V, §512, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

PRIOR PROVISIONS

A prior section 3056j, Pub. L. 89-73, title V, §512, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to coordination with the Workforce Investment Act of 1998, prior to the general amendment of this subchapter by Pub. L. 109-365. See section 3056i of this title.

§ 3056k. Performance

(a) Measures and indicators

(1) Establishment and implementation of measures and indicators

The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this subchapter, States, older individuals, area agencies on aging, and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this subchapter. The core measures of performance and additional indicators of performance shall be applicable to each grantee under this subchapter without regard to whether such grantee operates the program directly or through subcontracts, subgrants, or agreements with other entities.

(2) Content

(A) Composition of measures and indicators

(i) Measures

The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

(ii) Additional indicators

The additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be the additional indicators of performance specified in subsection (b)(2).

(B) Continuous improvement

The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.

(C) Expected levels of performance

The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance specified in subparagraph (A)(i). The agreement shall take into account the requirement of subparagraph (B) and the factors described in subparagraph (D), and other appropriate factors as determined by the Secretary, and shall be consistent with the requirements of subparagraph (E). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning the levels with all grantees, the Secretary shall make available for public review the final negotiated expected levels of

performance for each grantee, including any comments submitted by the grantee regarding the grantee's satisfaction with the negotiated levels.

(D) Adjustment

The expected levels of performance described in subparagraph (C) applicable to a grantee shall be adjusted after the agreement under subparagraph (C) has been reached only with respect to the following factors:

(i) High rates of unemployment or of poverty or participation in the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in the areas served by a grantee, relative to other areas of the State involved or Nation.

(ii) Significant downturns in the areas served by the grantee or in the national economy.

(iii) Significant numbers or proportions of participants with 1 or more barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title, served by a grantee relative to such numbers or proportions for grantees serving other areas of the State or Nation.

(iv) Changes in Federal, State, or local minimum wage requirements.

(v) Limited economies of scale for the provision of community service employment and other authorized activities in the areas served by the grantee.

(E) Placement

(i) Level of performance

For all grantees, the Secretary shall establish an expected level of performance of not less than the percentage specified in clause (ii) (adjusted in accordance with subparagraph (D)) for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B).

(ii) Required placement percentages

The minimum percentage for the expected level of performance for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B) is—

- (I) 21 percent for fiscal year 2007;
- (II) 22 percent for fiscal year 2008;
- (III) 23 percent for fiscal year 2009;
- (IV) 24 percent for fiscal year 2010; and
- (V) 25 percent for fiscal year 2011.

(3) Limitation

An agreement to be evaluated on the core measures of performance and to report information on the additional indicators of performance shall be a requirement for application for, and a condition of, all grants authorized by this subchapter.

(b) Indicators of performance

(1) Core indicators

The core indicators of performance described in subsection (a)(2)(A)(i) shall consist of—

(A) hours (in the aggregate) of community service employment;

(B) entry into unsubsidized employment;

(C) retention in unsubsidized employment for 6 months;

(D) earnings; and

(E) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of the title.

(2) Additional indicators

The additional indicators of performance described in subsection (a)(2)(A)(ii) shall consist of—

(A) retention in unsubsidized employment for 1 year;

(B) satisfaction of the participants, employers, and their host agencies with their experiences and the services provided;

(C) any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

(3) Definitions of indicators

The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in paragraphs (1) and (2).

(c) Evaluation

The Secretary shall—

(1) annually evaluate, and publish and make available for public review information on, the actual performance of each grantee with respect to the levels achieved for each of the core indicators of performance, compared to the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)); and

(2) annually publish and make available for public review information on the actual performance of each grantee with respect to the levels achieved for each of the additional indicators of performance.

(d) Technical assistance and corrective efforts

(1) Initial determinations

(A) In general

As soon as practicable after July 1, 2007, the Secretary shall determine if a grantee under this subchapter has, for program year 2006—

(i) met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and

(ii) achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B).

(B) Technical assistance

If the Secretary determines that the grantee, for program year 2006—

(i) failed to meet the expected levels of performance described in subparagraph (A)(i); or

(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii),

the Secretary shall provide technical assistance to assist the grantee to meet the expected levels of performance and achieve the applicable percentage.

(2) National grantees

(A) In general

Not later than 120 days after the end of each program year, the Secretary shall determine if a national grantee awarded a grant under section 3056(b) of this title in accordance with section 3056l of this title has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

(B) Technical assistance and corrective action plan

(i) In general

If the Secretary determines that a national grantee fails to meet the expected levels of performance described in subparagraph (A), the Secretary after each year of such failure, shall provide technical assistance and require such grantee to submit a corrective action plan not later than 160 days after the end of the program year.

(ii) Content

The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

(iii) Recompetition

Any grantee who has failed to meet the expected levels of performance for 4 consecutive years (beginning with program year 2007) shall not be allowed to compete in the subsequent grant competition under section 3056l of this title following the fourth consecutive year of failure but may compete in the next such grant competition after that subsequent competition.

(3) State grantees

(A) In general

Not later than 120 days after the end of each program year, the Secretary shall determine if a State grantee allotted funds under section 3056d(e) of this title has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

(B) Technical assistance and corrective action plan

(i) In general

If the Secretary determines that a State fails to meet the expected levels of per-

formance described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

(ii) Content

The plan submitted under clause (i) shall detail the steps the State will take to meet the expected levels of performance in the next program year.

(iii) Competition

If the Secretary determines that the State fails to meet the expected levels of performance described in subparagraph (A) for 3 consecutive program years (beginning with program year 2007), the Secretary shall provide for the conduct by the State of a competition to award the funds allotted to the State under section 3056d(e) of this title for the first full program year following the Secretary's determination.

(4) Special rule for establishment and implementation

The Secretary shall establish and implement the core measures of performance and additional indicators of performance described in this section, including all required indicators described in subsection (b), not later than July 1, 2007.

(e) Impact on grant competition

The Secretary may not publish a notice announcing a grant competition under this subchapter, and solicit proposals for grants, until the day that is the later of—

- (1) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and
- (2) January 1, 2010.

(Pub. L. 89-73, title V, §513, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(D)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 3056k, Pub. L. 89-73, title V, §513, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2281, related to performance measures, prior to the general amendment of this subchapter by Pub. L. 109-365.

§ 3056l. Competitive requirements relating to grant awards

(a) Program authorized

(1) Initial approval of grant applications

From the funds available for national grants under section 3056d(d) of this title, the Secretary shall award grants under section 3056(b) of this title to eligible applicants, through a competitive process that emphasizes meeting performance requirements, to carry out

projects under this subchapter for a period of 4 years, except as provided in paragraph (2). The Secretary may not conduct a grant competition under this subchapter until the day described in section 3056k(e) of this title.

(2) Continuation of approval based on performance

If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in section 3056k(d)(2)(A) of this title for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 3056(b) of this title to such recipient to continue such project beyond such 4-year period for 1 additional year without regard to such process.

(b) Eligible applicants

An applicant shall be eligible to receive a grant under section 3056(b) of this title in accordance with subsections (a), (c), and (d).

(c) Criteria

For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

(1) The applicant's ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) The applicant's ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

(3) The applicant's ability to administer a project that moves eligible individuals into unsubsidized employment.

(4) The applicant's prior performance, if any, in meeting core measures of performance and addressing additional indicators of performance under this subchapter and the applicant's ability to address core indicators of performance and additional indicators of performance under this subchapter and under other Federal or State programs in the case of an applicant that has not previously received a grant under this subchapter.

(5) The applicant's ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title, into unsubsidized employment.

(6) The applicant's ability to coordinate activities with other organizations at the State and local level.

(7) The applicant's plan for fiscal management of the project to be administered with funds received in accordance with this section.

(8) The applicant's ability to administer a project that provides community service.

(9) The applicant's ability to minimize disruption in services for participants and in community services provided.

(10) Any additional criteria that the Secretary considers to be appropriate in order to

minimize disruption in services for participants.

(d) Responsibility tests

(1) In general

Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

(2) Review

As part of the review described in paragraph (1), the Secretary may consider any information, including the applicant's history with regard to the management of other grants.

(3) Failure to satisfy test

The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

(4) Test

The responsibility tests include review of the following factors:

(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

(B) Established fraud or criminal activity of a significant nature within the organization or agency involved.

(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

(D) Willful obstruction of the audit process.

(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

(H) Failure to submit required reports.

(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A-133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

(L) Failure to audit a subrecipient within the required period.

(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in

the judgment of the grant officer, the disallowances are egregious.

(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

(5) Determination

Applicants that are determined to be not responsible shall not be selected as grantees.

(6) Disallowed costs

Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996, including the amendments made by that Act.

(e) Grantees serving individuals with barriers to employment

(1) Definition

In this subsection, the term “individuals with barriers to employment” means minority individuals, Indian individuals, individuals with greatest economic need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) Special consideration

In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

(f) Minority-serving grantees

The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.

(Pub. L. 89-73, title V, §514, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2584.)

REFERENCES IN TEXT

The Debt Collection Improvement Act of 1996, referred to in subsec. (d)(6), is section 31001 of title III of Pub. L. 104-134, Apr. 26, 1996, 110 Stat. 1321-358. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 3701 of Title 31, Money and Finance, and Tables.

PRIOR PROVISIONS

A prior section 3056l, Pub. L. 89-73, title V, §514, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2282, related to competitive requirements relating to grant awards, prior to the general amendment of this subchapter by Pub. L. 109-365.

§ 3056m. Report on service to minority individuals

(a) In general

The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this subchapter.

(b) Contents

(1) Organization and data

Such report shall present information on the levels of participation and the outcomes

achieved by such minority individuals with respect to each grantee under this subchapter, by service area, and in the aggregate, beginning with data that applies to program year 2005.

(2) Efforts

The report shall also include a description of each grantee's efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

(3) Related matters

The report shall also include—

(A) an assessment of individual grantees based on the criteria established under subsection (c);

(B) an analysis of whether any changes in grantees have affected participation rates of such minority individuals;

(C) information on factors affecting participation rates among such minority individuals; and

(D) recommendations for increasing participation of minority individuals in the program.

(c) Criteria

The Secretary shall establish criteria for determining the effectiveness of grantees in serving minority individuals in accordance with the goals set forth in section 3056(a)(1) of title.

(d) Submission

The Secretary shall annually submit such a report to the appropriate committees of Congress.

(Pub. L. 89-73, title V, §515, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2587.)

PRIOR PROVISIONS

A prior section 3056m, Pub. L. 89-73, title V, §515, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2286, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 109-365. See section 3056o of this title.

§ 3056n. Sense of Congress

It is the sense of Congress that—

(1) the older American community service employment program described in this subchapter was established with the intent of placing older individuals in community service positions and providing job training; and

(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations.

(Pub. L. 89-73, title V, §516, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2587.)

PRIOR PROVISIONS

A prior section 3056n, Pub. L. 89-73, title V, §516, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2287, related to definitions, prior to the general amendment of this subchapter by Pub. L. 109-365. See section 3056p(a) of this title.

§ 3056o. Authorization of appropriations**(a) In general**

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011.

(b) Obligation

Amounts appropriated under this section for any fiscal year shall be available for obligation during the annual period that begins on July 1 of the calendar year immediately following the beginning of such fiscal year and that ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency that receives funds under this subchapter if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency.

(c) Recapturing funds

At the end of the program year, the Secretary may recapture any unexpended funds for the program year, and reobligate such funds within the 2 succeeding program years for—

- (1) incentive grants to entities that are State grantees or national grantees under section 3056(b) of this title;
- (2) technical assistance; or
- (3) grants or contracts for any other activity under this subchapter.

(Pub. L. 89-73, title V, §517, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2587.)

§ 3056p. Definitions and rule**(a) Definitions**

For purposes of this subchapter:

(1) Community service

The term “community service” means—

- (A) social, health, welfare, and educational services (including literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;
- (B) conservation, maintenance, or restoration of natural resources;
- (C) community betterment or beautification;
- (D) antipollution and environmental quality efforts;
- (E) weatherization activities;
- (F) economic development; and
- (G) such other services essential and necessary to the community as the Secretary determines by rule to be appropriate.

(2) Community service employment

The term “community service employment” means part-time, temporary employment paid with grant funds in projects described in section 3056(b)(1)(D) of this title, through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

(3) Eligible individual**(A) In general**

The term “eligible individual” means an individual who is age 55 or older and who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), excluding any income that is unemployment compensation, a benefit received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), a payment made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs, or 25 percent of a benefit received under title II of the Social Security Act (42 U.S.C. 401 et seq.), subject to subsection (b).

(B) Participation**(i) Exclusion**

Notwithstanding any other provision of this paragraph, the term “eligible individual” does not include an individual who has participated in projects under this subchapter for a period of 48 months in the aggregate (whether or not consecutive) after July 1, 2007, unless the period was increased as described in clause (ii).

(ii) Increased periods of participation

The Secretary shall authorize a grantee for a project to increase the period of participation described in clause (i), pursuant to a request submitted by the grantee, for individuals who—

- (I) have a severe disability;
- (II) are frail or are age 75 or older;
- (III) meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.);
- (IV) live in an area with persistent unemployment and are individuals with severely limited employment prospects; or
- (V) have limited English proficiency or low literacy skills.

(4) Income

In this section, the term “income” means income received during the 12-month period (or, at the option of the grantee involved, the annualized income for the 6-month period) ending on the date an eligible individual submits an application to participate in a project carried out under this subchapter by such grantee.

(5) Pacific Island and Asian Americans

The term “Pacific Island and Asian Americans” means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(6) Program

The term “program” means the older American community service employment program established under this subchapter.

(7) Supportive services

The term “supportive services” means services, such as transportation, child care, de-

pendent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this subchapter, consistent with the provisions of this subchapter.

(8) Unemployed

The term “unemployed”, used with respect to a person or individual, means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income.

(b) Rule

Pursuant to regulations prescribed by the Secretary, an eligible individual shall have priority for the community service employment and other authorized activities provided under this subchapter if the individual—

- (1) is 65 years of age or older; or
- (2)(A) has a disability;
- (B) has limited English proficiency or low literacy skills;
- (C) resides in a rural area;
- (D) is a veteran;
- (E) has low employment prospects;
- (F) has failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); or
- (G) is homeless or at risk for homelessness.

(Pub. L. 89-73, title V, §518, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2588.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3)(A), (B)(ii)(III), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles II and XVI of the Act are classified generally to subchapters II (§401 et seq.) and XVI (§1381 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Workforce Investment Act of 1998, referred to in (b)(2)(F), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

SUBCHAPTER X—GRANTS FOR NATIVE AMERICANS

§ 3057. Statement of purpose

It is the purpose of this subchapter to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under subchapter III of this chapter.

(Pub. L. 89-73, title VI, §601, as added Pub. L. 100-175, title I, §171, Nov. 29, 1987, 101 Stat. 959.)

PRIOR PROVISIONS

A prior section 3057, Pub. L. 89-73, title VI, §601, as added Pub. L. 95-478, title I, §106, Oct. 18, 1978, 92 Stat. 1548; amended Pub. L. 97-115, §3(d), Dec. 29, 1981, 95 Stat. 1597, related to statement of purpose for grants to Indian tribes, prior to the general amendment of this subchapter by Pub. L. 100-175.

A prior section 601 of Pub. L. 89-73, title VI, as added Pub. L. 91-69, §9, Sept. 17, 1969, 83 Stat. 111; amended

Pub. L. 93-29, title VI, §601, May 3, 1973, 87 Stat. 55, related to grants and contracts for volunteer service projects and was classified to section 3044 of this title, prior to repeal by Pub. L. 93-113, title VI, §604(a), Oct. 1, 1973, 87 Stat. 417.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100-175, set out as an Effective Date of 1987 Amendment note under section 3001 of this title.

§ 3057a. Sense of Congress

It is the sense of the Congress that older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

(Pub. L. 89-73, title VI, §602, as added Pub. L. 100-175, title I, §171, Nov. 29, 1987, 101 Stat. 959; amended Pub. L. 102-375, title IX, §904(a)(20), Sept. 30, 1992, 106 Stat. 1309.)

PRIOR PROVISIONS

A prior section 3057a, Pub. L. 89-73, title VI, §602, as added Pub. L. 95-478, title I, §106, Oct. 18, 1978, 92 Stat. 1549; amended Pub. L. 97-115, §3(d), Dec. 29, 1981, 95 Stat. 1597; Pub. L. 98-459, title VI, §601, Oct. 9, 1984, 98 Stat. 1787, related to eligibility of an Indian tribe for assistance and definitions, prior to the general amendment of this subchapter by Pub. L. 100-175. See section 3057c of this title.

AMENDMENTS

1992—Pub. L. 102-375 substituted “older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians” for “older Indians, older Alaskan Natives, and older Native Hawaiians”.

PART A—INDIAN PROGRAM

§ 3057b. Findings

(a)¹ The Congress finds that the older individuals who are Indians of the United States—

- (1) are a rapidly increasing population;
- (2) suffer from high unemployment;
- (3) live in poverty at a rate estimated to be as high as 61 percent;
- (4) have a life expectancy between 3 and 4 years less than the general population;
- (5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;
- (6) lack sufficient Indian area agencies on aging;
- (7) frequently live in substandard and overcrowded housing;
- (8) receive less than adequate health care;
- (9) are served under this subchapter at a rate of less than 19 percent of the total national population of older individuals who are Indians living on Indian reservations; and

¹ So in original. No subsec. (b) has been enacted.